UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,828	06/25/2001	Norman Katz	441-26-001	1840

23935   7590   01/02/2009
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ART UNIT	PAPER NUMBER
3691	

MAIL DATE	DELIVERY MODE
01/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No.	Applicant(s)
	09/891,828	KATZ, NORMAN
	Examiner	Art Unit
	OLABODE AKINTOLA	3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2008*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7 and 15* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-7 and 15* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some *   c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 10/14/2008 has been entered.

Status of Claims

Claims 1-7 and 15 are pending. The rejections cited are as stated below:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with

the written description requirement. The claim(s) contains subject matter, which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed

invention.

Regarding claims 1-7 the limitation "said CPU not functioning as a trusted agent" is not

described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor, at the time the application was filed, has possession of the invention. The

original disclosure does not have support for what the CPU is not functioning as. The limitation

"said CPU not functioning as a trusted agent" is considered to be a negative limitation. Any

negative limitation or exclusionary provision must have basis in the original disclosure. See

MPEP § 2173.05(i).

Furthermore, applicant specification explicitly teaches that the CPU can function as an escrow

service (see page 10, lines 18-19).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 5-7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Walker et al (USPN 5794207) (Walker) in view of Weiss et al (USPN 5866889) (Weiss), and

further in view of Rosen (USPN 5455407) (Rosen1) and further in view of Cotton et al (US

6076074).

Re claim 1: Walker teaches an electronic funds transfer system comprising:

a) a central controller CPU in electronic communication over the Internet with system users and

participating banks, said central controller CPU accessible by one or more system users engaged

in a fund transfer transaction, the CPU programmed to process the on-line transaction, record and

maintain an accounting of the transactions, communicate the transaction information to

participating banks and system users, monitor on-line electronic funds transfers and to function

as an information conduit for processing the funds transfer transaction between system users

accounts at participating banks (Figs. 2 and 13, col. 20, line 48 through col. 21, line 15);

b) means at each of buyers and sellers participating bank, in communication with the central

controller CPU, for buyers and sellers of goods or services to establish electronic funds accounts

linked to accounts in said participating banks (Figs. 2 and 13, col. 20, line 48 through col. 21,

line 15),

c) a transaction processor module associated with said central controller CPU for processing

interactive letters of credit, and establishing and releasing, encumbrances on electronic funds

deposited in said electronics funds accounts as financial transactions are entered into and

consummated, said transaction processor module acting on instructions from the first system user

to pay identified obligations to another user of said electronic funds transfer system (Figs. 2 and

13, col. 20, line 48 through col. 21, line 15; col. 22, lines 1-20);

d) a central controller storage module associated with the central controller CPU capable of

storing information regarding all electronic on-line transactions between the buyers, sellers and

the participating banks (Figs. 2 and 13, col. 20, line 48 through col. 21, line 15), said central

controller CPU being programmed to automatically balance electronic funds with their

corresponding bank reserves throughout the system (Figs. 2 and 13, col. 20, line 48 through col.

21, line 15) ; wherein the buyer in each transaction has control over the specification of

electronic funds to be encumbered, the funds once encumbered being restricted from access by

the buyer with the exception of release to the seller in return for delivery of goods and services,

unless released back to buyer by seller (Figs. 2 and 13, col. 20, line 48 through col. 21, line 15;

col. 22, lines 1-20).

 Walker does not explicitly teach said CPU not functioning as a trusted agent. Walker explicitly

teaches the CPU establishes buyer account which either stores money transferred by the buyer *or

serves as a pointer to an account of the buyer outside the system (col. 21, lines 1-3)*. Therefore,

it would have been obvious to one of ordinary skill in the art to omit this functionality (trusted

agent) where the function is not desired or required. *Ex parte Wu* , 10 USPQ 2031 (Bd. Pat. App.

& Inter. 1989). MPEP § 2144.04 (II). See also *In re Larson*, 340 F.2d 965, 144 USPQ 347

(CCPA 1965) ; and *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)

Walker does not explicitly teach demand deposit account; wherein a single defined electronic

representation of currency is established for use in all transactions in the system, said electronic

representation of currency being purchased by said buyers from demand deposit accounts in said

participating banks and deposited in said buyer's electronic funds account at the buyer's

participating bank, said electronic representations of currency have an original monetary value

tied to a selected actual currency for use within the entire electronic fund transfer system; and on a periodic basis, balancing funds with corresponding bank reserves and issuing reports of such transaction. However, Walker teaches establishing electronic funds accounts linked to accounts in said participating banks (col. 21, lines 1-3).

Weiss teaches establishing transaction accounts (electronic fund account) linked to demand deposit account in the same bank (col. 3, lines 5-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker to have such linked accounts so that the customer could access these accounts more easily.

Rosen1 teaches wherein electronic representations of currency purchased by said buyers from demand deposit accounts in said participating banks are deposited in said buyer's electronic funds account at buyer's participating bank, said electronic representations of currency have an original monetary value tied to a selected actual currency (col. 1, lines 15-19; col. 4, lines 42-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker to include these features as taught by Rosen1. One would have been motivated to do so in order to utilize universally accepted electronic representations of money that can be exchanged as economic value by the buyers and sellers.

Cotton teaches on a periodic basis, balancing funds with corresponding bank reserves and issuing reports of such transaction (Cotton: col. 4, lines 28-41, col. 8, lines 18-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker to include these features, so that the net positions of the participating bank can be settled on a daily basis.

Re claim 2: Walker does not explicitly teach a new account module in communication with the central controller, said new account module accessible by users over the Internet, for qualifying new users and recording initial electronic representations of currency reserves deposited in support of electronic funds accounts at said participating bank.

Rosen1 teaches a new account module in communication with the central controller, said new account module accessible by users over the Internet, for qualifying new users and recording initial electronic representations of currency reserves deposited in support of electronic funds accounts at said participating bank (abstract; col. 3, lines 44-45). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker to include these features as taught by Rosen1. One would have been motivated to do so in order have a separate module for enrolling first time users.

Re claim 3: Walker does not explicitly teach voice or video communications capability between system users and the central controller CPU. Rosen1 teaches voice or video communications capability between system users and the central controller CPU (col. 8, lines 12-23; col. 10, lines 41-43). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker to include these features as taught by Rosen1. One would have been motivated to do so in order to incorporate voice and video communications capability, thereby enhancing the flexibility of the system.

Re claim 5: Walker does not explicitly teach encryption, de-encryption and re-encrypting

capabilities for recording and storing transaction records in a secure data storage facility, data

stored for each transaction being accessible only by the participants of the transaction and an

authorized operator of the electronic funds transfer system.

Rosen1 teaches encryption, de-encryption and re-encrypting capabilities for recording and

storing transaction records in a secure data storage facility, data stored for each transaction being

accessible only by the participants of the transaction and an authorized operator of the electronic

funds transfer system (col. 8, lines 12-23;col. 3, lines 1-5). It would have been obvious to one of

ordinary skill in the art at the time of the invention to modify Walker to include these features as

taught by Rosen1. One would have been motivated to do so in order prevent unauthorized access

to the facility, thereby enhancing the security of the system

Re claim 6: Walker teaches that the system is accessible by a buyer and seller communicating

therewith over the Internet using the central controller CPU as an intermediary, the central

controller CPU providing information services, a data link between users, record financial

transactions, funds encumbrances and unencumbrancing thereof and to reconcile funds transfers

on completion of a transaction to the satisfaction of the buyer and seller (Figs. 2 and 13, col. 20,

line 48 through col. 21, line 15; col. 22, lines 1-20).

Re claim 7: Walker does not explicitly teach wherein electronic funds encumbered by a first

buyer for the benefit of a first seller can be re-encumbered by said first seller for the benefit of

one or more second sellers or funds providers to which said first seller owes a financial

obligation, such that when the transaction between the first buyer and the first seller is completed

and the encumbrance by the first buyer on first buyer funds is released, the released funds are

automatically transferred, pursuant to instructions of first seller, to such one or more second

sellers or funds providers, and prior sellers to said second sellers as so instructed by such

participants electronically within the system.

Rosen1 teaches wherein electronic funds encumbered by a first buyer for the benefit of a first

seller can be re-encumbered by said first seller for the benefit of one or more second sellers or

funds providers to which said first seller owes a financial obligation, such that when the

transaction between the first buyer and the first seller is completed and the encumbrance by the

first buyer on first buyer funds is released, the released funds are automatically transferred,

pursuant to instructions of first seller, to such one or more second sellers or funds providers, and

prior sellers to said second sellers as so instructed by such participants electronically within the

system (col. 5, lines 22-43; col. 8, lines 24-29). It would have been obvious to one of ordinary

skill in the art at the time of the invention to modify Walker to include these features as taught by

Rosen1. One would have been motivated to do so in order to allow the seller to use part of the

encumbered funds to transact business with third parties without having to encumber new funds.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of

Weiss in view of Rosen1 as applied to claims 1 and 3 above, in view of Rosen2 (USPN

5557518) ("Rosen2").

Re claim 4: Modified Walker does not explicitly teach electronic and person assisted dispute

resolution and customer support services. Rosen2 teaches electronic and person assisted dispute

resolution and customer support services (col. 2, lines 38-41; col. 9, lines 41-43; col. 28, lines

39-67). It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify Walker to include this step. One would have been motivated to do so in order to

resolve disputes arising from the transaction between the buyer and seller.

Re claim 15: Walker teaches an electronic funds transfer system comprising:

a) a central controller CPU in electronic communication over the Internet with system users and

participating banks, said central controller CPU accessible by one or more system users engaged

in a fund transfer transaction, the CPU programmed to process the on-line transaction, record and

maintain an accounting of the transactions, communicate the transaction information to

participating banks and system users, monitor on-line electronic funds transfers and to function

as an information conduit for processing the funds transfer transaction between system users

accounts at participating banks (Figs. 2 and 13, col. 20, line 48 through col. 21, line 15);

b) means at each of buyers and sellers participating bank, in communication with the central

controller CPU, for buyers and sellers of goods or services to establish electronic funds accounts

linked to accounts in said participating banks (Figs. 2 and 13, col. 20, line 48 through col. 21,

line 15),

c) a transaction processor module associated with said central controller CPU for processing

interactive letters of credit, and establishing and releasing, encumbrances on electronic funds

deposited in said electronics funds accounts as financial transactions are entered into and

consummated, said transaction processor module acting on instructions from the first system user

to pay identified obligations to another user of said electronic funds transfer system (Figs. 2 and

13, col. 20, line 48 through col. 21, line 15; col. 22, lines 1-20);

d) a central controller storage module associated with the central controller CPU capable of

storing information regarding all electronic on-line transactions between the buyers, sellers and

the participating banks (Figs. 2 and 13, col. 20, line 48 through col. 21, line 15), said central

controller CPU being programmed to automatically balance electronic funds with their

corresponding bank reserves throughout the system (Figs. 2 and 13, col. 20, line 48 through col.

21, line 15) ; wherein the buyer in each transaction has control over the specification of

electronic funds to be encumbered, the funds once encumbered being restricted from access by

the buyer with the exception of release to the seller in return for delivery of goods and services,

unless released back to buyer by seller (Figs. 2 and 13, col. 20, line 48 through col. 21, line 15;

col. 22, lines 1-20).

 Walker does not explicitly teach said CPU functioning solely as an administrator of the system.

Walker explicitly teaches the CPU establishes buyer account which either stores money

transferred by the buyer *or serves as a pointer to an account of the buyer outside the system*

(col. 21, lines 1-3). Therefore, it would have been obvious to one of ordinary skill in the art to

omit this functionality (trusted agent) where the function is not desired or required. *Ex parte Wu ,*

10 USPQ 2031 (Bd. Pat. App. & Inter. 1989). MPEP § 2144.04 (II). See also *In re Larson*, 340

F.2d 965, 144 USPQ 347 (CCPA 1965) ; and *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA

1975)

Walker does not explicitly teach demand deposit account; wherein a single defined electronic representation of currency is established for use in all transactions in the system, said electronic representation of currency being purchased by said buyers from demand deposit accounts in said participating banks and deposited in said buyer's electronic funds account at the buyer's participating bank, said electronic representations of currency have an original monetary value tied to a selected actual currency for use within the entire electronic fund transfer system; and on a periodic basis, balancing funds with corresponding bank reserves and issuing reports of such transaction. However, Walker teaches establishing electronic funds accounts linked to accounts in said participating banks (col. 21, lines 1-3).

Weiss teaches establishing transaction accounts (electronic fund account) linked to demand deposit account in the same bank (col. 3, lines 5-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker to have such linked accounts so that the customer could access these accounts more easily.

Rosen1 teaches wherein electronic representations of currency purchased by said buyers from demand deposit accounts in said participating banks are deposited in said buyer's electronic funds account at buyer's participating bank, said electronic representations of currency have an original monetary value tied to a selected actual currency (col. 1, lines 15-19; col. 4, lines 42-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker to include these features as taught by Rosen1. One would have been motivated to do so in order to utilize universally accepted electronic representations of money that can be exchanged as economic value by the buyers and sellers.

Cotton teaches on a periodic basis, balancing funds with corresponding bank reserves and issuing

reports of such transaction (Cotton: col. 4, lines 28-41, col. 8, lines 18-22). It would have been

obvious to one of ordinary skill in the art at the time of the invention to modify Walker to

include these features, so that the net positions of the participating bank can be settled on a daily

basis.

Response to Arguments

Applicant's arguments filed 10/14/2008 have been fully considered but they are not

persuasive.

Applicant argues that Walker's CPU functions as a "trusted agent" or an "escrow agent"

(i.e., a component designated to receive the funds being transferred and hold those funds in

escrow to await release to the seller) and that this functionality is a necessity; acting as a pointer

is an added feature, not an alternative means of operation. Applicant also argues that the Central

Controller in the instant application serves solely as an administrator of the system by not

incurring any currency translation risk.

Examiner respectfully disagrees. Walker explicitly teaches the CPU establishes buyer account

which *either* stores money transferred by the buyer *or serves as a pointer to an account of the*

buyer outside the system (col. 21, lines 1-3). Therefore, it would have been obvious to one of

ordinary skill in the art to omit this functionality (trusted agent) where the function is not desired

or required. *Ex parte Wu ,* 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989). MPEP § 2144.04 (II).

See also *In re Larson*, 340 F.2d 965, 144 USPQ 347 (CCPA 1965) ; and *In re Kuhle*, 526 F.2d

553, 188 USPQ 7 (CCPA 1975).

Examiner interprets the cited portion of Walker in the alternative. That is, the CPU can establish

buyer account with the capability to store funds, or in the alternative, serves as a pointer to an

account of the buyer outside the system. By serving as a pointer to the buyer's account outside

the system (i.e., by maintaining the buyers account information and using the pointer to perform

the electronic fund transfer function), the CPU does <u>not</u> store funds and can function without

being a "trusted agent" or "escrow agent". Also, using this interpretation and explanation, the

CPU serves also as an administrator since it does not incur any currency translation risk.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Rosen (USPN 5453601 and 5453601) teach electronic monetary system.

Chang (USPN 5848400) teaches on a periodic basis, balancing funds with corresponding

bank reserves and issuing reports of such transaction (col. 9, lines 3-25)

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-

3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olabode Akintola/
Examiner, Art Unit 3691